

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Esme Trontz	Team: Squad #2	CCRB Case #: 202007338	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 10/14/2020 4:30 PM	Location of Incident: [REDACTED]	Precinct: 61	18 Mo. SOL 4/14/2022	EO SOL 5/4/2022	
Date/Time CV Reported Wed, 10/14/2020 5:25 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 11/06/2020 11:20 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Adnand Misku	13851	966226	061 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Maria Villalta	28608	967383	061 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Adnand Misku	Abuse: Police Officer Adnand Misku refused to provide his name to § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Adnand Misku	Abuse: Police Officer Adnand Misku refused to provide his shield number to § 87(2)(b) [REDACTED]	[REDACTED]
C.POM Adnand Misku	Abuse: Police Officer Adnand Misku threatened § 87(2)(b) [REDACTED] with the use of force.	[REDACTED]
D.POM Adnand Misku	Abuse: Police Officer Adnand Misku threatened to issue summons to § 87(2)(b) [REDACTED]	[REDACTED]

## Case Summary

§ 87(2)(b) filed this complaint with IAB on October 14, 2020. It was received by the CCRB on November 6, 2020 via IAB log #20-25361.

On October 14, 2020, at approximately 4:30 p.m., § 87(2)(b) parked his van, which had tinted windows, in front of § 87(2)(b) in Brooklyn and ran inside the building to make a delivery. As he was inside, Police Officers Adnand Misku and Maria Villalta of the 61<sup>st</sup> Precinct drove by in a marked vehicle and noticed that § 87(2)(b)'s vehicle was blocking the bike lane. As § 87(2)(b) exited the building, Police Officers Misku and Villalta were approaching his vehicle, after which he entered the driver seat of the vehicle. Police Officer Misku allegedly asked § 87(2)(b) for his license, after which § 87(2)(b) allegedly said, "Turn on your camera and give me your name and badge number and then I will give you my license." Police Officer Misku allegedly did not provide his name and shield number (**Allegations A and B: Abuse of Authority- Refusal to Provide Name and Shield**, § 87(2)(g)). Police Officer Misku allegedly asked again for § 87(2)(b)'s license, after which § 87(2)(b) allegedly asked why he needed his license. Police Officer Misku then allegedly pulled out his Taser and pointed it at § 87(2)(b) for approximately four to five seconds (**Allegation C: Abuse of Authority- Threat of Force**, § 87(2)(g)). § 87(2)(b) gave his license to Police Officer Misku, after which Police Officer Villalta wrote him a summons for parking in the bike lane. After Police Officer Misku handed the summons to § 87(2)(b) he allegedly said, "You don't want me to catch you again, take off your tints" (**Allegation D: Abuse of Authority- Threat of Summons**, § 87(2)(g)).

Body-worn camera videos from Police Officers Misku and Villalta were obtained for this incident, which are attached in IAs #36 and #37, respectively (Board Review #01, #02). They are summarized in IA #38 (Board Review #03).

## Findings and Recommendations

**Allegation A: Abuse of Authority: Police Officer Adnand Misku refused to provide his name to § 87(2)(b)**

**Allegation B: Abuse of Authority: Police Officer Adnand Misku refused to provide his shield number to § 87(2)(b)**

**Allegation C: Abuse of Authority: Police Officer Adnand Misku threatened § 87(2)(b) with the use of force.**

§ 87(2)(b) was interviewed by the CCRB via telephone on November 16, 2020 (Board Review #04). Police Officers Misku and Villalta were interviewed by the CCRB on April 5, 2021.

§ 87(2)(b) testified that after Police Officer Misku requested his license, § 87(2)(b) said, "Turn on your camera and give me your name and badge number and then I will give you my license." Police Officer Misku did not respond to either of these requests, and instead said again, "Give me your license." § 87(2)(b) said, "For what reason?," after which Police Officer Misku immediately pulled out his Taser and pointed it at § 87(2)(b)'s chest. As soon as he pointed the Taser, § 87(2)(b) put up his hands and Police Officer Misku requested the license a third time. § 87(2)(b) retrieved his license from his wallet and handed it to the officer, who did not lower the Taser until he obtained § 87(2)(b)'s license, which took approximately four to five seconds.

Police Officer Misku stated that § 87(2)(b) asked for his name and shield number, which he immediately provided. He engaged his BWC soon after providing his name and shield number because § 87(2)(b) began arguing with him. He denied taking out his Taser at any time and denied pointing it, or anything else, at § 87(2)(b). Police Officer Villalta likewise did not see him point the Taser and testified that § 87(2)(b) never asked either officer for their name or shield number. She denied that either of them ever refused to provide their name or shield number to § 87(2)(b) but also did not hear Police Officer Misku providing his name and shield number to § 87(2)(b).

Much of Police Officer Misku's BWC footage matches § 87(2)(b)'s account of the incident, except that, crucially, it never shows him pointing the Taser at § 87(2)(b) (Board Review #01). Police Officer Villalta's BWC does not provide another angle of the moment Police Officer Misku allegedly pointed the Taser because she was turned away at the time (at 45 seconds into Police Officer Misku's footage, and 42 seconds into Police Officer Villalta's) (Board Review #02). In addition, the period of time in which Police Officer Misku stated he gave his name and shield number to § 87(2)(b) which is consistent with the time § 87(2)(b) stated he requested it, occurs just before Police Officer Misku turns on his BWC, so no audio is captured. § 87(2)(b) is wearing a face mask in the video so it is impossible to determine what he was saying without the audio.

§ 87(2)(g)

§ 87(2)(g)

**Allegation D: Abuse of Authority: Police Officer Adnand Misku threatened to issue summons to § 87(2)(b)**

It is undisputed that § 87(2)(b) had tinted windows and did not have stickers on his car showing that his tints were allowed. Police Officer Misku told § 87(2)(b) that he would summons him in the future for the tints.

§ 87(2)(b) testified that he possessed documents in his car signed by his doctor that stated he required the tints because he had an allergy to sunlight. He had not yet obtained the necessary stickers from the Department of Motor Vehicles to display on his car to show that his tints were allowed but had an appointment with the DMV to obtain them. The front window had a 20% tint, and the side and back windows had a 5% tint (allowing 20 and 5 percent of the light to pass through the windows, respectively). After handing the summons to § 87(2)(b) Police Officer Misku said, "You don't want me to catch you again, take off your tints."

Police Officer Misku could not recall whether he said specifically, "You don't want me to catch you again, take off your tints," but stated that he said something similar, indicating that he could summons § 87(2)(b) in the future for the tints. Though he could not remember ever speaking with § 87(2)(b) in the past, he remembered speaking with another driver of his car at some point prior to the incident, when he instructed that driver to remove the tints. The doctor's note that § 87(2)(b) provided was not sufficient documentation to allow him to have the tints; the stickers from the DMV, placed on either the front or rear window, were the only documentation sufficient to exonerate him.

Police Officer Misku's BWC footage shows him saying to § 87(2)(b) at 6:34 into the footage, "blocking the lane, you got one, and then you're gonna get [one] next time, for your tints" (Board Review #01). The footage also confirms that § 87(2)(b) did not have any stickers on his windows allowing the tints, and that the side windows are tinted enough that the inside of the vehicle is not visible.

New York State Vehicle and Traffic Law Section 375 12(a) states that no person may operate a vehicle containing windows that allow less than 70% of light to pass through (Board Review #05). A medical exemption can be obtained for drivers or passengers requiring window tints but a sufficiently noticeable sticker confirming the tints are allowed must be attached to any window in the vehicle.

§ 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- § 87(2)(b) has been a party to one other CCRB complaint and has been named a victim in six allegations (Board Review #06).
  - § 87(2)(b)
- Police Officer Misku has been a member-of-service for two years and has been a subject in two CCRB cases and four allegations, none of which were substantiated. § 87(2)(g)

#### **Mediation, Civil and Criminal Histories**

- § 87(2)(b) declined mediation for this complaint.
- As of April 13, 2021, the NYC Office of the Comptroller found no record of a Notice of Claim being filed in regards to this incident (Board Review #07).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review #08).

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Squad No.: 2

Investigator: Esme Trontz Inv. Esme Trontz 04/16/2021  
Signature Print Title & Name Date

Squad Leader: Alexander Opoku-Agyemang IM Alexander Opoku-Agyemang 4/27/2021  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date